

# DEPARTMENT OF CORRECTIONS MONTANA STATE PRISON OPERATIONAL PROCEDURE

Procedure No.: MSP 3.3.6	Subje	ct: CORRESPONDENCE, PUBLICATIONS, & PACKAGES
Reference: DOC Policy No. 3.3.6		Page 1 of 11
Effective Date: November 14, 1997		Revision: (new effective date) June 6, 2012
Signature / Title: /s/ Leroy Kirkegard / Warden		

#### I. PURPOSE

To encourage inmate correspondence with limitations necessary to maintain facility order, security, rehabilitation, and sanitation and allow inmates to correspond with outside persons or organizations, receive publications, and send packages.

#### II. **DEFINITIONS**

<u>General correspondence</u> – all mail not otherwise considered as legal or privileged.

<u>Legal correspondence</u> - any correspondence to or from the office of a licensed attorney, or to or from a court of law. No person who is on the inmate's approved visiting list will be allowed to send or receive mail designated as legal correspondence; rather it will be handled as general correspondence. Mail from an attorney's office must include the attorney's name and the complete name and address of the law firm. Mail from a court of law must clearly indicate on the envelope it is from one of these sources.

<u>Nudity</u> – a photograph or picture image that shows nipples of the female breast, pubic hair, or genitalia (sex organs) or anus of a female or male. Photographs or picture images that include exposures with "see-through" clothing or materials will also be considered as nudity.

<u>Privileged correspondence</u> - correspondence which may be treated in a manner similar to legal correspondence based on the type of correspondence, the sender's return address, advance notice, and/or extenuating circumstances.

#### Prohibited image - an image that:

- depicts an actual or simulated sexual act (including but not limited to sexual intercourse, oral sex or masturbation) or nudity
- promotes tattooing or body piercing;
- by its nature or content depicts or facilitates criminal or gang activity;
- is detrimental to or poses a threat to the discipline, security, or order of the institution.

<u>Prohibited writing</u> - writing that depicts sexual or other acts (including <u>but</u> not limited to sexual intercourse involving children, sadomasochism, bestiality, oral sex or masturbation) that by its nature or content facilitates gang activities, criminal activity, and/or is detrimental to, or poses a threat to discipline, security, or order of the institution.

#### III. PROCEDURES

## A. Comprehensive Correspondence, Publications, and Packages Requirements

1. Authorized personnel of Montana State Prison (MSP) may open, examine, and censor mail sent from or addressed to an inmate in accordance with United States Postal Administrative Support Manual, Section 274.96. "Authorized personnel of prisons under the procedures promulgated by the facility may open, examine, and censor mail sent from

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or addressed to an inmate." Correspondence from inmates does not become U.S. mail, per the U.S. Postal service either when given to a postal employee or when deposited into a receptacle authorized by the Postmaster General for the receipt of mail. Therefore, unless items are considered actual mail, the federal laws pertaining to the protection of mail matter do not apply.

- 2. Only the warden, or designee, may authorize exceptions to this procedure.
- 3. Inmates can send or receive an unlimited amount of correspondence without restriction to source, destination, or content if the inmate can afford postage and complies with this procedure, unless reasonable belief exists that limitation is required to protect public safety or the secure and orderly operation of the facility.
- 4. The Mailroom administrative support supervisor, with oversight from MSP Prison Administration, is responsible for implementing the correspondence program outlining the convenient deposit and distribution of inmate correspondence every business day.
- 5. Outgoing correspondence, including legal and general, must display a complete return address of the appropriate facility, e.g., "Montana State Prison, 700 Conley Lake Road, Deer Lodge, MT 59722" and the inmate's last name and DOC identification number. Correspondence will be disposed of if the inmate sending the general correspondence cannot be identified.
- 6. Incoming correspondence, publications, and packages that do not include the receiving inmate's last name and DOC identification number or that contain markings, drawings, or acronyms on the envelope, packaging, or contents will be returned to the sending party without notice to the inmate.
- 7. Incoming correspondence will be disposed of if the envelope has no return address, the return address is incomplete, or if the sender cannot be identified.
- 8. Incoming correspondence that contains sensitive information or documents inappropriate for an inmate to possess, e.g., a marriage license, birth certificate, social security number, or vehicle title, may be held in the inmate's main file, or other designated location, for delivery to the inmate upon release. Documents requiring a signature, notary, or other action will be processed with assistance from the unit management team.
- 9. All correspondence, including legal and general, is usually processed within 24 hours and not held more than 48 hours excluding weekends, holidays, or emergencies. This standard does not include correspondence for inmates temporarily absent from the facility, e.g., hospital, fire crew, or court or cases where a legitimate penological interest of safety and security exist.
- 10. When an inmate is transferred to another facility, the inmate is responsible for notifying change of address to appropriate entities; correspondence, publications, and packages will be forwarded according to the following:
  - a. first-class letters will be forwarded until an inmate's release, after release all general correspondence will be returned to the sender; and
  - b. magazines and newspapers will be forwarded for 90 days.

## **B.** Comprehensive Prohibitions

- 1. Correspondence is prohibited between MSP inmates and the following:
  - a. victim(s) of an inmate's crime(s) of any conviction except as authorized in writing by the warden, or designee;
  - b. mail ordered pen pals;

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- c. any individual under Department of Corrections (DOC) supervision, except correspondence between immediate family members with prior written approval of the administrator, or designee, from both facilities and/or programs;
- d. current or former DOC or contract facility employees or volunteers, except with prior written approval of the warden, or designee, or when correspondence from inmates to staff is related to re-entry programs, current job status, etc; and
- e. individuals or organizations who advise the warden, or designee, that receipt of correspondence is unwanted, if an individual does not wish to receive correspondence, the following will occur:
  - 1) the warden, or designee, will send a written directive to the inmate to cease contact; and
  - 2) correspondence addressed to the recipient following directive to cease contact will be returned to the inmate, who may be subject to disciplinary action.
- 2. Directing or conducting business operations through correspondence is prohibited, except as necessary to protect real property, close out a business, or as allowed by *MSP Procedure 5.5.4*, *Hobby Crafts Program*.
- 3. Delivery of correspondence through a DOC staff member, volunteer, or any person not authorized to perform functions related to the established mail-handling system is prohibited.
- 4. Inmates may not send or receive taped or other electronic correspondence without prior written approval from the security major.
- 5. Currency, unauthorized enclosures, and contraband found will be confiscated, returned to sender, or handled as undeliverable.

## C. Outgoing Legal Correspondence

- 1. To be processed as outgoing legal correspondence, an envelope must indicate, in addition to the requirements outlined in Section III.A.5., the following:
  - a. the name and the official status of the addressee, if the addressee does not meet the definition of one of the entities noted in the definition of legal correspondence, the mail will be handled as general correspondence; and
  - b. the label "Legal Mail."
- 2. In accordance with this procedure, outgoing legal correspondence will:
  - a. not be read by staff;
  - b. be inspected for contraband by staff in the presence of the inmate before it is sealed:
  - c. be labeled on the outside of the envelope as approved legal mail and signed by the inmate and
  - d. if the contents, based on a scan by staff, contain only legal information, the envelope will be sealed by the inmate and unit staff will mark the envelope as inspected by printing the staff name and initials and forward it to the Mailroom for mailing.
- 3. Inmates who are on the current indigent list or have insufficient funds to send legal correspondence may be eligible for eight paid mailings per month; inmates seeking postage assistance for legal correspondence must submit a completed special mailing request with the correspondence indicating the need for paid postage.

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# D. Incoming Legal Correspondence

1. To be processed as incoming legal correspondence, the envelope must have, in addition to the requirements outlined in Section IV.A.6., a return address from an office of a licensed attorney or court of law or have a stamp designating correspondence as legal mail.

- 2. In accordance with this procedure, incoming legal correspondence will:
  - a. not be read by staff;
  - b. be routed to the appropriate inmate's housing unit or other designated location;
  - c. be opened by unit or facility staff in the presence of the inmate;
  - d. be inspected by staff for contraband including the envelope and enclosed paperwork, staff will scan the enclosed paperwork to determine it is of a legal nature;
  - e. if the content of the enclosed paperwork is of a legal nature it will be stamped as legal and the inmate will initial the stamp indicating it was opened in his presence; the staff member will also print their name and initial in the stamp area; and
  - f. if the content of the enclosed paperwork is not of a legal nature, the staff member will review the item with a member of the unit management team; if the paperwork is not of a legal nature an incident report will be written and the paperwork will be sent to the security major for follow-up.
- 3. If there is reasonable suspicion a piece of mail contains contraband, the security major may authorize legal correspondence to be opened in a secure area outside the housing unit with the inmate present.

## **E.** General Correspondence Requirements

- 1. Designated staff may open, read, photocopy, or examine incoming and outgoing general correspondence for contraband.
- 2. If general correspondence (incoming and outgoing) contains the following, the correspondence will be held, and may be considered undeliverable and investigated:
  - a. prohibited images or writings;
  - b. threats of physical harm against any person or threats of or participation in criminal activity;
  - c. blackmail or extortion;
  - d. contraband;
  - e. plans for activities in violation of facility rules, e.g., plans to escape or assist another to escape, riots;
  - f. a document or any text that is in code;
  - g. drugs or drug paraphernalia; or
  - h. any violation of U.S. Postal Service regulation, law, or policies.
  - i other materials that, if communicated, would create a serious danger to the security of the facility, especially any material, evidencing security threat group information, activities, or involvement; or
  - j copies of a Facebook page or other types of Internet communication maintained for the inmate by a member of the public.
- 3. General correspondence that is in a language other than English, either completely or in part may be delayed for translation in accordance with the following:

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a. translation and review of contents for compliance with this procedure may require up to 10 working days;

- b. if translation will delay the normal mailing of the correspondence, the inmate will be notified; and
- c. if attempts to translate are unsuccessful within 10 days, the inmate will be provided a written notice of the undeliverable mail including a description of why the document was rejected and the effort's made to translate the document.
- 4. All outgoing general correspondence must be left unsealed.

# F. Incoming General Correspondence Requirements

- 1. Only a cancelled postage stamp, address label, and return address stamp, when applicable, is allowed as an attachment and must be affixed to the front of the envelope or package. Postage stamps as well as any other adhesive backed sticker, such as a return address label, may be removed or cut out from envelopes by the Mail Room for security purposes prior to sending to the inmate.
- 2. Incoming correspondence will be held, may be considered undeliverable, and may be investigated if it contains any of the following:
  - a. mail with metal bindings other than staples including paper clips, binder clips, and other metal fasteners; items may be returned to sender or staff will remove and forward the mail to the inmate;
  - b. bodily fluids;
  - c. an attempt to correspond to facilitate inmate to inmate communication including, but not limited to, sending mail to an addressee to be given to another, mail to or from an inmate may contain only mail for the inmate whose name is on the envelope or package, authorized correspondence may not include letters or messages to be passed on or mailed by the recipient to another person or inmate;
  - e. postage stamps, envelopes, blank stationary, blank writing paper, blank cards, or blank postcards will be disposed of by the Mailroom and the remaining mail will be routed to the inmate excluding self–addressed envelopes from an authorized state agency or legal entity only if there is no postage stamp or the postage stamp is of an electronic or pre-paid nature;
  - f. attachment(s), e.g., decorative ink stamps, stickers, ink markings, lip impressions, perfumes, or powders glued, taped or otherwise affixed to envelopes or their contents; or
  - g. material which, if communicated could result in any of the following:
    - 1) threat or be detrimental to the security, safety, health, good order or discipline of the facility;
    - 2) threat or be detrimental to the inmate rehabilitation process;
    - 3) facilitate criminal activity;
    - 4) create tension within the facility because it advocates separation of, violence between, or is derogatory towards any group or individual within the facility; and
    - 5) create a clear and present danger of violence or physical harm to a human being.
- 3. Printed material enclosures are subject to the review process, allowable enclosures include:
  - a. written correspondence;

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b. photocopies no larger than 8.5" x 11" (may include photocopies of newspaper and magazine articles);

- c. copies of forms, informational or reading material from the Internet. **Note**: Photocopies or items printed from the internet under the "fair use of copyrighted work" is not a infringement of copyright laws if the items are used for the purposes of criticism, comment, news reporting, teaching, scholarship, or research;
- d. small pamphlets;
- f. business cards;
- g. photographs(excluding Polaroid or other layered photographs) that will fit into the authorized photo album or photographs no larger than 8.5" x 11". Multiple photographs on a single page will individually be counted towards the allowable photo limit (i.e. if there are 7 photos included on a single page they will count as 7 photographs)
- h. one greeting card per envelope that is plain and unembellished, e.g., no padding, lamination, glitter, music recordings, or popups, and card may not exceed 8"x10". (may be multi-fold)

#### **G.** Financial Transactions

- 1. Inmates are only allowed to send money to those persons on their approved visiting list.
- 2. Inmates may receive funds through the mail from the following approved parties:
  - a. an inmate's attorney;
  - b. immediate family members, e.g., mother, father, brother, sister, wife, child, grandparent or stepparent, listed on the inmate's approved visiting list; or
  - c. a non-family member authorized by the warden, or designee, by an exemption to an inmate allowing the inmate to receive money orders from an individual listed on the inmate's approved visiting list if no immediate family members on the approved visiting list send money or he has no immediate family members on his approved visiting list. Inmates may request exemptions once every six months.
- 3. Approved parties may send funds to an inmate when funds are in the form of a U.S. Postal money order and meet the following requirements:
  - a. funds must be received within 20 days of the date of purchase;
  - b. must include the inmates last name and DOC identification number;
  - c. must include the completed, printed, legible name and address of the sender (for comparison with the approved visiting list);
  - d. the envelope the money order arrives in must be postmarked from the immediate area of the approved sender's listed residence is located; and
  - e. if the sender cancels a money order after it has been received at MSP the U.S. Postal authorities will be notified.
- 4. In addition to correspondence, the DOC maintains an electronic funds and transfer process through which authorized senders may deposit funds into an inmate's account.
- 5. The administrative support supervisor, or designee, will forward funds such as U.S. Treasury Department checks, refunds, inmate personal savings withdrawals, approved business transactions, or tribal checks to accounting staff to be credited to the inmate's account.
- 6. Unapproved funds or delivery that does not comply with this procedure will be returned to sender.

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### H. Publications

1. Inmates may possess a limited number of publications as listed on the current authorized property list (see *attachment A* of *MSP 4.1.3*, *Inmate Personal Property*).

- 2. Publications are subject to screening and review and may not contain any of the following:
  - a. prohibited images or writings;
  - b. contents focusing on weapons or explosives;
  - c. instructions for the manufacturing of drugs or drug paraphernalia;
  - d. metal bindings or metal fasteners, bindings must be glued;
  - e. materials in used or refurbished condition;
  - f. code(s);
  - g. material which violates any DOC policy or facility-specific operational procedure; or
  - h. content which, as a whole, lacks literary, artistic, political, scientific, or educational value.
  - i. material larger than 9" wide, by 12" tall and 2" thick and those with hard covers/bindings (books must be soft cover) will not be allowed with the exception of:
    - 1) legal, religious, or educational books that exceed these parameters will be reviewed for authorization on a case-by-case basis;
    - 2) existing inmate purchased personal property that has been authorized and stamped by the property office will be allowed for the purchaser's retention after implementation of this operational procedure; and
    - 3) state-owned library books (not marked for library use only) are allowed in housing units based on the inmate following the appropriate library book check out process. On a limited, case by case basis, some library books may be marked as library use only.
    - 4) new books that are not available in soft cover may be allowed in hard cover provided the inmate is not in locked housing unit.
    - 5) other books or publications on a case by case basis with consideration of the inmates custody level.
  - j. Material, drawings, or photographs which primary intent is to promote sexual arousal or activity, or pictures as the main theme without any literary value involved. For example, information sent from vendors to inmates for purchase of partially clad females, wearing thongs, or pinup type pictures will not be allowed and will be returned to sender, and any material received as a result of such purchases will not be allowed.
  - k. language or material that advocates for, or encourages, the following:
    - 1) violence or activities that may disrupt the safety or security of the facility;
    - 2) racial, religious or national supremacy or hatred; or
    - 3) behavior that is detrimental to security or rehabilitation such as gambling, illegal sexual activities, or the commission of a crime;
    - 4) publications that present history, historical perspective, critique or information related to race, religion, or other items may be allowed based on content review.

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3. Publications in a language other than English may be allowed and are subject to a review and approval process that includes up to 20 days for magazines and newspapers and up to 30 days for books.

4. Pictures or other items that are removed from, or torn out of, books or magazines will be considered contraband.

#### 5. Books

- a. An inmate or a person on the inmate's approved visiting list may order new books, magazines, newspapers, or other printed matter providing such material is sent directly by the publisher or any licensed retail outlet and complies with the following:
  - 1) Invoice or enclosed paperwork indicates the name of the sender (to establish that the person that sent it is on the inmate's approved visiting list). The inmate will be issued an undeliverable notice for publications received without this information.
  - 2) Paperwork indicates the inmate's last name, his identification number, and the name and address of MSP when it arrives. Anything received without this information will be returned to sender or disposed of.
  - 3) Does not contain items prohibited under III H Publications or any other section of this procedure.
  - 4) Is not the result of a contract purchase, such as music or book clubs.
  - 5) Does not contain a credit card or credit card application. All book orders and books that come in from vendors will be forwarded to the Property Officer who will screen them for proper authorization and content.
- b. If the book meets procedural guidelines the Property Officer will process it in accordance with *MSP 4.1.3, Inmate Personal Property*, including inventory and documentation and approval stamp.
- c. If the Property Officer feels an ordered book received for an inmate is unallowable due to its content, the book will be forwarded to a publication/book review committee designated by the Warden or designee, for a final decision.
  - 1) The same committee used for magazine review and disapprovals, may be used for publication/book review. The committee will determine the process used for book reviews.
  - 2) Material that has scholarly, literary, or artistic value may be allowed. If a book is unallowable due to its content, the inmate and the publisher will be sent a written notice outlining the specific reason(s) the material is being rejected by the publication/book review committee or property office. Appropriate documentation concerning the contents of the book will be retained until final resolution of any grievance the inmate may file.
  - A listing of disapproved books will be maintained which will include the book name, date of disapproval and reason. The publication/book review committee will maintain the list and forward additions / deletions to the Property Office, Education Department for placement on the Inmate TV and to the Contract Placement Bureau for distribution to the Regional and private facilities. This information will be made available to the inmate population and all of the prison facilities.
- d. It is the inmate and the person on the inmate's approved visiting list responsibility to purchase book items in accordance with this procedure. If there is a question

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regarding a potential book being allowed prior to purchase, the Property Office, Property Office Supervisor, or grievance staff should be contacted. Potential questionable books that require a more detailed review by the prison staff upon receipt will only delay the book delivery process or result in additional cost to the inmate or sender for books returned that do not comply with operational procedure.

- 6. A list of disapproved magazines will be maintained that lists magazines that will not be delivered to inmates according to the following procedure:
  - a. An initial list of disapproved magazines will be developed from magazines not currently allowed into facilities.
  - b. A committee comprised of representatives from facility security, the Contract Placement Bureau, and the MSP Grievance Office will consider additions to the disapproved magazine list as necessary.
  - c. The committee is not required to meet formally to approve or disapprove a magazine, but each member will be consulted before a final decision is reached.
  - d. The committee's decision to place a magazine on the disapproved list will be based upon a number of variables including, but not limited to:
    - 1) whether magazine issues have been consistently disapproved over several months;
    - 2) whether a magazine generally contains any of the prohibited material outlined in this procedure; and
    - 3) information and justification provided by staff from MSP or other Department-owned or contracted secure care facilities;
  - e. Committee decisions will be final.
  - f. The disapproved magazine list will be maintained at MSP and distributed to the wardens of the adult secure care contract facilities.
  - g. The warden, or designee, may submit magazines to the committee for consideration to be placed on the disapproved magazine list.
  - h. Mailroom staff will process disapproved magazines as undeliverable and will provide information regarding the exclusion of the magazine, in writing, to the inmate.
  - i. The inmate may appeal the decision to exclude the magazine through the inmate grievance process, beginning with submission of an informal resolution form to the committee.
- 7. Newspaper subscriptions will be allowed when content adheres to the requirements of this procedure and subscriptions are properly addressed to the inmate and sent directly from the newspaper publisher. Newspaper subscriptions may be ordered by the inmate or a person on the inmate's approved visiting list.
- 8. Publications, excluding books, magazines, or newspapers, will be reviewed on a case-bycase basis, and will be considered as undeliverable mail unless approved in advance through a process developed by the facility.

# I. Cell Posting Areas

- 1. Each cell in the facility will have a designated area to be utilized by inmate occupants to post authorized items indicated by painted area(s) on the wall(s) in accordance with the following:
  - a. double occupancy cells will have two separate posting areas;

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- b. single occupancy cells will have one posting area;
- c. posting area(s) may not exceed 24" x 24"; and
- d. cells in the low security compound housing units and the Work and Re-entry Center may have a different designated posting area for each inmate occupant, however the same size restrictions apply.
- 2. Inmate occupants may utilize the designated posting area only for the following items:
  - a. a hobby permit, as required;
  - b. invoices for purchased electronic items they purchase, as required;
  - c. a document authorizing an ADA accommodation, as required;
  - d. property inventory forms, as required:
  - e. eagle feather ownership documents, as required; and
  - f. additional approved items for designated inmates. (such as HSR's)
- 3. Staff will seize as contraband any unauthorized posted item in addition to items posted, hung, or affixed in unauthorized areas or that overlap a boundary of the posting area, and will process the items in accordance with the inmate disciplinary system.

## J. Packages

- 1. Packages for inmates will be forwarded to the property officer for screening, authorization, and processing in accordance with the inmate property procedures. The property officer will inventory and document approved package contents and dispose of packaging outside the facility.
- 2. Inmates may only ship packages to persons on the inmate's approved visiting list and must pay for all shipping expenses. If the inmate does not have anyone on his approved visiting list he may write to the Security Major for permission to ship a package(s) to another person.
- 3. Visitors may pick up outgoing packages with prior written approval of the Security Major, or designee.

## K. Undeliverable Correspondence and Publications

- 1. Incoming correspondence, excluding books and other items listed within this procedure, found to be in violation of this operational procedure will be considered undeliverable and processed according to the following:
  - a. Mailroom staff will complete and send a "Notice of Undeliverable Mail" to the housing unit where the inmate is located.
  - b. Housing unit staff will present the "Notice of Undeliverable Mail" to the inmate.
  - c. The inmate, in the presence of staff, will complete and sign the appropriate sections on the form.
  - d. Housing unit staff will complete the form by printing their name, initials and date on it, and return the completed form to the Mailroom.
  - e. If the inmate indicates that he wishes to file a grievance, the item in question will be held by the Mailroom staff in a designated location until the item is reviewed by Grievance Staff and the grievance is resolved.
  - f. If the inmate refuses to check one of the options, the correspondence will be returned to the sender at the inmate's expense.
- 4. When an individual or vendor sends contraband to MSP, the warden, or designee, may place restrictions on correspondence, publications, and or packages that arrive at MSP from the violating individuals or vendors and, during restriction, incoming items and mail

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from the restricted individuals or vendors will be processed as undeliverable. Restrictions will be placed according to the following:

- a. the warden, or designee, will send written notice to the restricted individual or vendor concerning the restriction;
- b. the warden, or designee, may rescind a restriction upon written application for lifting of the restriction from the restricted party; and
- c. if contraband is sent by a person on any inmate's current approved visitor list, the violating person's visiting privileges will be restricted as outlined in *MSP 3.3.8*, *Inmate Visiting*.

## IV. CLOSING

Questions concerning this operational procedure will be directed to the Mailroom Supervisor or the Security Major.